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AMENDING AGRICULTURAL ADJUSTMENT ACT OF 1938

JANUARY 5 (calendar day, MARCH 21), 1938.—Ordered to be printed

Mr. SMITH, from the Committee on Agriculture and Forestry,
submitted the following

REPORT

[To accompany S. 3668]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 3668) to amend the Agricultural Adjustment Act of 1938, having considered the same, report favorably thereon with a recommendation that the bill do pass with amendments.

The bill S. 3668, herewith reported, amends the Agricultural Adjustment Act of 1938 so as to correct minor errors in the text of that act and to make specific provisions for certain situations requiring additional legislation which have become apparent in the course of the initial steps in administering that act.

Section I amends section 8 (b) of the Soil Conservation and Domestic Allotment Act, as amended by section 101 of the Agricultural Adjustment Act of 1938, so as to provide that the county agricultural extension agent, any duly elected member of a county or other local committee, and the treasurer and secretary of such committee shall have power while acting as such agent, committeeman, treasurer, or secretary to administer oaths or take affirmations of persons making affidavits required under section 8 (g) of the Soil Conservation and Domestic Allotment Act or under section 349 (b) of the Agricultural Adjustment Act of 1938.

The amendment provides that the power conferred shall be limited to the county in which such agent, committeeman, treasurer, or secretary is authorized to act. The amendment also provides that it shall be unlawful for any of the persons whom it authorizes to administer oaths or take affirmations to collect or accept any fee or other charge for administering such oath or affirmation.

The purpose of the amendment is to make it more convenient for farmers participating in the soil-conservation program to execute certain documents required in connection with the program, to speed up the administration of the program, and to eliminate certain ele-

ments of cost to farmers which, under the act as it now stands, they would be required to pay.

Under the provisions of section 8 (g) of the Soil Conservation and Domestic Allotment Act, farmers assigning payments are required to execute affidavits in connection with such assignments. Affidavits are also required under the terms of section 349 (b) of the Agricultural Adjustment Act of 1938 in connection with applications for payments under the soil-conservation program. It is desired to make available to farmers without expense adequate facilities for executing these required affidavits. The amendment embodied in section 1 would accomplish this by empowering additional persons not now authorized to administer oaths or affirmations to do so, and would make available throughout each county persons before whom the required affidavits can be executed with a maximum of convenience and saving of time and without expense.

Section 2 amends subparagraph 5 of section 8 (c) of the Soil Conservation and Domestic Allotment Act as amended by section 101 of the Agricultural Adjustment Act of 1938, by converting the basis therein established for determining normal yield per acre on any farm in the case of wheat or corn to a standard for determining the normal yield per acre for any county. It is a companion amendment to that embodied in section 3 and is related to the amendments embodied in sections 6, 7, and 8.

The act, as it now stands, contains no express standard for determining normal yields for counties. This amendment makes such a provision. It is desirable that such yields be determined to serve as a standard for the determination of normal yields in the county for which actual yields are not available. The provisions of subparagraph (5) of section 8 (c) are appropriate with the changes provided in this amendment for determining normal yields for counties.

Section 3 amends section 8 (c) of the Soil Conservation and Domestic Allotment Act as amended by section 101 of the Agricultural Adjustment Act of 1938 by adding a new provision for determining normal yield per acre for any farm in the case of wheat or corn. The new paragraph (6) which this amendment adds to section 8 (c) differs in two respects from the present provision. First, where the actual yield is not available for any year of the base period prescribed, the normal yield would be determined by an appraisal covering the entire base period rather than by making a special appraisal for each year for which the actual yield is not available and combining these appraised yields with the yields in years for which data is available to arrive at an appraised yield for the entire base period. The amendment provides that actual yields in years for which data is available shall be taken into consideration in making the appraisals. In addition, the new paragraph eliminates the requirement of the present provision that normal yields be determined without regard to the actual yield in any year when, as a result of uncontrollable natural causes, the actual yield is less than 75 percent of the average of the other years of the 5- or 10-year period. It provides instead for taking into consideration abnormal weather conditions in making the appraisal of the normal yield for the period.

The method prescribed in the amendments embodied in sections 2 and 3 will accomplish substantially the same result in the determination of normal yields as is accomplished by the present provision, but

will eliminate a large number of tabulations and computations required by the present provision which do not contribute substantially to the accuracy of the resultant determination.

Section 4 amends section 8 (g) of the Soil Conservation and Domestic Allotment Act as amended by section 103 of the Agricultural Adjustment Act of 1938 so as to provide that the assignments of payments, which are required by the act in its present form to be acknowledged by the farmer before the county agent, may be acknowledged as well before any member of the county committee of the county in which the farm is located or the treasurer or secretary of the committee. It provides also that such assignments may be filed in the office of the county committee as well as in the office of the county agent, whereas under the act in its present form they may be filed only in the office of the county agent.

This amendment is related to the amendment embodied in section 1. Like that amendment, it is designed to simplify the procedure of handling the assignment forms so as to minimize the cost and inconvenience to farmers of executing the necessary documents. It increases the number of persons authorized in each county to take acknowledgment of the assignment documents and is to be expected to relieve serious congestion and delay which otherwise would be likely to result. A large number of assignments will probably be made in some counties and in all likelihood most of them will be made during a relatively short period of time. The duties and responsibilities of county agents are already so numerous that if they should be required personally to take acknowledgment of all the assignments and attend to the filing of them, it is probable that not only great inconvenience and delay would result to farmers but that during the time assignments were being made the county agents would have to neglect, to some extent, their other duties. The amendment would correct this situation.

The provision made in the amendment that assignments may be filed in the office of the county committee as well as in the office of the county agent would eliminate the necessity of filing the assignments in the office of the county agent in localities in which the county agents do not participate actively in the administration of the act.

Section 5: Amends section 105 of the Agricultural Adjustment Act of 1938 by providing that notwithstanding the amendment made to the Soil Conservation and Domestic Allotment Act by sections 101, 102, 103, and 104 of the Agricultural Adjustment Act of 1938, payment with respect to farming operations carried out in the calendar year 1938, and based upon any soil-depleting crop for which special acreage allotments are established shall be made at not less than 90 percent of the rates announced by the Secretary before enactment of the Agricultural Adjustment Act of 1938.

This amendment will authorize the Secretary to fulfill a commitment undertaken under the terms of the Soil Conservation and Domestic Allotment Act prior to the enactment of the amendment thereto embodied in section 104 of the Agricultural Adjustment Act of 1938 which provides a formula for apportioning funds to various commodities. The application of that formula in 1938 would result in the rate of payments to producers of certain commodities who comply with the program being reduced below the minimum rate previ-

ously announced under the Soil Conservation and Domestic Allotment Act.

This proposed amendment would restore the previously announced rates for potatoes, fire-cured and dark air-cured tobacco, and Georgia-Florida Type 62 tobacco as follows:

	Rate determined under formula	Rate announced Oct. 23, 1937	Rate provided in this amendment
	<i>Cents</i>	<i>Cents</i>	<i>Cents</i>
Early potatoes, per bushel.....	3	6	5.4
Late potatoes, per bushel.....	3	4	3.6
Fire-cured and dark air-cured tobacco, per pound.....	1.5	1.7	1.53
Georgia-Florida type 62 tobacco, per pound.....	1.5	2	1.8

With these rates restored as indicated above, payments for the above commodities would be about \$1,000,000 larger than with the revised rates recently announced.

The rates as announced on October 23, 1937, were, by the terms of the announcement, subject to a decrease of 10 percent. Consequently, the proposed amendment would provide for rates equal to the minimum rates previously announced.

The need for maintaining these rates is most pronounced in the case of early potatoes because preparations for planting had been made in most of the producing areas, and some acreage actually had been planted, before the new rates were announced. Also, the reduction in rate was greater for early potatoes than for any other commodity.

There have been three other reductions from previously announced rates, but it does not appear that this proposed amendment should apply to these other rates. The Secretary's announcement of October 23 contained a rate of \$1.50 per acre for the group of general soil-depleting crops for which special acreage allotments are not established. Wheat was one of the crops in this group. The amendments to the Soil Conservation and Domestic Allotment Act provided for special acreage allotments and a separate rate of payment for wheat. With this crop removed from the general group the rate of payment for the general group of soil-depleting crops under the new formula became \$1.25 per acre. The decrease appears justified with wheat removed from the group leaving crops for which less adjustment in acreage is required.

The rate of payment on soil-conserving acreage has been decreased from 70 cents per acre to 50 cents per acre and the rate on commercial vegetables from \$2 per acre to \$1.50 per acre. Both of these rates, however, serve merely to measure the maximum amount of payment, or allowance, which a farmer may receive for carrying out soil-building practices. They do not constitute the measure of the amount of payment per unit of performance. The change in these rates, therefore, does not mean any change in the amount of payment a farmer receives for planting an acre of soil-conserving crops or carrying out a unit of any other approved practice.

Sections 6, 7, and 8 amend section 301 of the Agricultural Adjustment Act of 1938 in a manner similar to that in which the amend-

ments embodied in sections 2 and 3 modify the comparable provisions of the Soil Conservation and Domestic Allotment Act, and for similar reasons.

It is desirable that the amendments be made in both sections in order to prevent confusion in the minds of farmers and to facilitate concurrent administration of the two programs. In addition, it is desirable that the amendment be made in section 301 in order that the advantages described in the discussion relating to sections 2 and 3 may be achieved also in the making of allotments to cotton farms to which section 301 relates but for which no specific provision is made under the Soil Conservation and Domestic Allotment Act to which sections 2 and 3 relate.

Section 9 amends section 313 (a) of the Agricultural Adjustment Act of 1938 by striking out the word "net" where it appears in section 313 (a) of the Agricultural Adjustment Act of 1938, immediately before the expression "acreage diverted under previous agricultural adjustment and conservation programs."

It was intended to delete the word "net" wherever it appeared in this connection in earlier drafts of the bill in order that reference to acreage diverted under previous programs should be uniformly expressed throughout the act and in order to eliminate the ambiguity which it was found the word "net" introduced into the expression. Its inclusion in this section and in section 334 of the bill as finally enacted was unintentional. The meaning intended to be expressed in this section and in section 334 is the same as that intended to be expressed in other sections where "net" is not used in this connection. The amendment will eliminate whatever ambiguity the inadvertent inclusion of the word "net" otherwise might create.

Section 10 amends section 328 of the Agricultural Adjustment Act of 1938 by inserting a provision expressly authorizing adjustment of the average yield used in computing the acreage allotment of corn for abnormal weather conditions and trends in yield. It was intended to include such an express provision in the original act but it was inadvertently omitted. In the absence of an express provision for such adjustment the intention that such adjustment should be made is ambiguously expressed and must be drawn from a reading of the section in connection with the other provision of the act relating to the corn-acreage allotment. This amendment will eliminate any ambiguity which may arise from the absence of an express provision for adjustment for abnormal weather conditions and trends in yield.

Section 11: Amends section 334 (b) of the Agricultural Adjustment Act of 1938 by striking out the word "net" in that section where it appears before the expression "acreage diverted under previous agricultural adjustment and conservation programs". This amendment is similar to that in section 312 (a) discussed in connection with section 9 of this bill and is desirable for similar reasons.

Section 12: The committee recommends that section 12 of the bill be stricken out and that there be substituted in lieu thereof the following:

(b) Section 343 of such act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the provisions of subsections (a) and (b), the national allotment for any year shall be increased by a number of bales equal to the production of the acres allotted under section 344 (c) (3) for such year."

(c) The first sentence of section 344 (a) of such act is amended by striking out "section 343 (c)" and inserting in lieu thereof "sections 343 (c) and 343 (d)".

(d) Section 344 (c) of such act is amended by adding at the end thereof the following new paragraph:

"(3) Not more than 2 per centum of the State acreage allotment shall be apportioned, in amounts determined by the Secretary to be fair and reasonable, in counties in the State to farms receiving allotments under subsection (d) which the Secretary determines are inadequate in view of past production of cotton. The acreage required for apportionment under this paragraph shall not reduce the State acreage allotment but shall be in addition to the State acreage allotment."

This amendment provides that not more than 2 percent of the State acreage allotment of cotton shall be apportioned to farms in the State receiving allotments under section 344 (d) which the Secretary determines are not adequate in view of the past production of cotton on such farms. These additional allotments to individual farms are to be in amounts determined by the Secretary to be fair and reasonable. The acreage required for such apportionment is not to reduce the State acreage allotment but is to be in addition to it, and the national allotment is to be increased by a number of bales equal to the production of the acres allotted to farms under this new provision.

The amendment is designed to provide for additional allotments to farms which have produced more than 5 acres of cotton, but which, under the operation of the act in its present form, receive unduly small allotments because, in the county in which they are located, there are extraordinarily many small farms receiving 100 percent allotments under the so-called 5-acre minimum provision of section 344 (d) (1). In some counties the number of such small farms is so great and the minimum allotments made to them under section 344 (d) (1) consume so great a part of the county allotment that insufficient amounts are available to permit equitable allotments to be made to farms which otherwise would receive in excess of 5 acres. This amendment will provide an additional reserve to be available for allotment in such counties to farms, the allotments to which are thus drastically curtailed by the operation of the 5-acre minimum provision.

Section 13 amends section 344 (d) (3) of the Agricultural Adjustment Act of 1938 by inserting the expression "sugarcane for sugar" in the provision designating land to be excluded in determining the tilled acreage for a farm on the basis of which cotton acreage allotments are to be apportioned to farms under section 344 (d) (3).

The act in its present form provides that land on the farm devoted to the production of wheat, tobacco, and rice for market or for feeding to livestock for market is to be deducted in determining the tilled acreage which forms the basis for apportionment of the cotton allotment to the farm. Without the proposed amendment, a farm on which sugarcane is grown for sugar would be assigned a cotton acreage as large as that assigned to a farm of similar size on which no sugarcane is grown and a larger allotment than a farm of similar size on which rice, tobacco, or wheat is grown. This amendment would correct this situation so that the cotton allotment for a farm producing sugarcane for sugar as well as cotton would be comparable, for example, to the allotment for a farm producing cotton and rice.

Section 13 also amends section 344 (d) (3) by inserting after the expression "rice for market or" the words "wheat or rice". This is merely a clarifying change. The present provision would make it seem that the act contemplates that any acreage devoted to the production of tobacco for feeding to livestock should be excluded in determin-

ing the tilled acreage upon which the cotton acreage allotment is based. No such acreage is known to exist. In its present form the provision is somewhat ambiguous. The amendment makes it clear that the acreage devoted to wheat and rice for feeding shall be excluded.

Section 14 amends section 344 of the Agricultural Adjustment Act of 1938 by adding, as a new subsection, a provision for apportioning the county acreage allotment of cotton more equitably in counties in which the value of the cotton produced is less than the value of the tobacco produced and in counties in which the tilled land devoted to cotton is less than 15 percent of the tilled land in the county. Apportionment of the county allotment for such marginal cotton counties under the provisions of the act in its present form would result in allotments being made to farmers whose most important source of income is cotton which are relatively too small in comparison with the allotments made to farmers who depend primarily upon tobacco or other crops for their income. The amendment provides that in counties in which the county cotton acreage allotment is less than 15 percent of the tilled land of the county and in counties in which the value of the cotton produced in the latest year in which census data is available is less than the value of the tobacco produced for such year the county allotment shall be made on the basis of the average acreage planted to cotton during the 3 previous calendar years plus the acreage diverted from the production of cotton under the Agricultural Adjustment or Conservation Program during such years, making due allowances for abnormal weather conditions, land, labor, and equipment available for the production of cotton, crop-rotation practices and the soil, and other physical facilities affecting production of cotton.

The committee considers that this basis of apportionment will result in more equitable allotments in such counties than those which could be made in such counties under the present provisions of the act.

Section 15: Amends section 349 (b) of the Agricultural Adjustment Act of 1938 by limiting the requirement that an affidavit be filed with the application for payment to counties in which cotton has been planted during the year for which the payment is offered.

Under the present form of the act it would be necessary to require such affidavits throughout the continental United States, Alaska, Hawaii, and Puerto Rico. This amendment, by limiting the requirement of an affidavit to applications from counties in which cotton is grown, would greatly simplify the work of executing and auditing applications for payment. It would also diminish the expense to applicants who, under the present form of the act, might find it necessary to pay notary fees, and in the case of Puerto Rican producers, to affix tax stamps to the required affidavit.

Section 16: The committee recommends that section 16 of the bill as introduced be not passed at this time because of the probable increase in expense of administration which would be likely to result if authority were provided to subpoena witnesses to testify before review committees.

Section 17 of the bill as introduced is renumbered section 16 in the bill as reported.

This section amends section 372 of the Agricultural Adjustment Act of 1938 so as to provide authority and procedure for disposing of claims for refund of penalties alleged to have been erroneously,

illegally, or wrongfully collected. It provides that the Secretary of Agriculture, whenever he finds, pursuant to a claim filed with him within 1 year after payment to him of any penalty collected under the Agricultural Adjustment Act of 1938, that the penalty was erroneously, illegally, or wrongfully collected, shall certify to the Secretary of the Treasury for payment to the claimant, whatever amount the Secretary of Agriculture finds the claimant is entitled to receive as a refund. Payment is to be made in accordance with regulations prescribed by the Secretary of the Treasury. The Secretary of Agriculture is authorized to prescribe regulations covering the filing of such claims and the determination of such refunds. The amendment makes no appropriation and does not designate the fund out of which such refunds are to be paid.

Section 17: The committee recommends that there be inserted, as section 17, after line 7, on page 8 of the print of the bill as introduced, the following:

Section 372 of the Agricultural Adjustment Act of 1938 is amended by adding at the end thereof the following new subsection:

"(d) No penalty shall be collected under this act with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experimental station."

The act, in its present form, contains no express exemption applicable to the marketing of commodities grown for experimental purposes by publicly owned experimental stations. This amendment provides that the marketing of such commodities grown by such agencies shall not be subject to penalties under the Agricultural Adjustment Act of 1938.

Section 18: Amends section 381 (a) of the Agricultural Adjustment Act of 1938 by striking out the fifth and sixth sentences and inserting in lieu thereof a provision that cotton not sold prior to September 10, 1937, shall be considered to have been sold on a date when the average price of cotton was less than 9 cents per pound, and that no date of sale of such cotton need be established.

The amendment provides further that an application made as prescribed by the Secretary shall be acceptable as the basis for payment and that the payments shall be made as soon as practicable to all producers who agree to comply with the 1938 agricultural adjustment program, subject to the agreement of each producer that if he fails to comply with the program, he will refund any payment made to him, forthwith upon demand of the Secretary. These changes make it clear that it is not necessary to establish the date of sale of cotton sold after September 10, 1937, when the price of cotton dropped below 9 cents. They also are intended to expedite the making of the payments to all eligible producers by eliminating the present requirement that payment await proof that the producer has complied with the program.

Section 19: The committee recommends that there be added, as section 19, after line 7, on page 9 of the print of the bill, the following:

Section 381 (b) of the Agricultural Adjustment Act of 1938 is amended by striking out the date "July 1, 1938", in the first sentence, and inserting in lieu thereof the following "July 31, 1939".

Section 381 (b) of the Agricultural Adjustment Act of 1938 is hereby amended by striking out the second sentence reading as follows:

"The Corporation shall notify the Secretary of Agriculture of each such transfer, and upon receipt of such notice, the Secretary shall as soon as compliance is

shown, or a national marketing quota for cotton is put into effect, forthwith pay to such producer a sum equal to 2 cents per pound of such cotton, and the amount so paid shall be deducted from any price adjustment payment to which such producer is entitled,"

and inserting in lieu thereof the following:

"Upon completion of such transfer, the Corporation shall forthwith pay to such producer a selling commission equal to one-fourth cent per pound of such cotton, and the amount so paid shall come out of funds already provided the Corporation to facilitate the marketing of surplus commodities."

These amendments to section 381 (b) extend the time when a producer may transfer any cotton subject to a loan of the Commodity Credit Corporation from July 1, 1938, to July 1, 1939, and provide that the Corporation shall pay to a producer who transfers his cotton to the Corporation a selling commission equal to one-fourth of a cent per pound of the cotton transferred, the amount so paid to come out of the funds already provided the Corporation to facilitate the marketing of surplus commodities.

Sections 20, 21, and 22: Sections 19, 20, and 21 of the bill as introduced are renumbered as sections 20, 21, and 22, respectively.

Sections 20 and 21: Amend sections 403 and 404, respectively, of the Agricultural Adjustment Act of 1938 by extending to May 1, 1938, the time when a person may have become, according to the records of the Department of Agriculture, the lawful holder and owner of a pool-participation trust certificate, Form C-5-1, and be qualified to receive the payment for such certificate provided for in title IV of that act.

Section 22: Amends section 407 of the Agricultural Adjustment Act of 1938 by striking out "on or before" where it appears before May 1, 1937, and inserting "subsequent to". This change advances to May 1, 1937, the last date when assignees of pool participation trust certificates may have acquired the certificate and remain eligible to receive more than the purchase price paid by them for the certificate plus interest. Under the amendment the manager, cotton pool, is not authorized to pay an assignee or holder of such a certificate transferred subsequent to May 1, 1937, more than the purchase price plus interest, whereas under the act, as it stands, the limitation applied to certificates transferred on or before May 1, 1937.





